

## **SELF-CALENDARING PROCEDURES FOR JUDGE ERITHE A. SMITH**

The Honorable Erithe A. Smith has implemented a self-calendar system that allows parties to schedule hearing dates without obtaining prior approval from the courtroom deputy.

Please refer to the appropriate Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules for the Central District of California regarding time requirements for the service and filing of motions, applications and other requests for relief.

- ***PLEASE NOTE:* A hearing for which the moving papers have not been timely filed will not be placed on the court's calendar and the courtroom deputy will contact you regarding an alternative date.**

If you need to place your hearing on second call, you must call Judge Smith's judicial assistant at (714) 338-5441 at least one hour prior to the time of the hearing. Failure to do so may result in the denial of your motion for failure to appear. You must contact the courtroom deputy at (714) 338-5360 regarding stipulations, withdrawal of motions, continuances, or if you expect the hearing will take longer than 15 minutes.

### **I. MATTERS THAT MAY BE SELF-CALENDARED**

Parties may select their own hearing dates for the following:

- A. Motions for Relief from Stay (on regular notice)**
- B. Motions for Relief From Stay (shortened time)**

In any case involving a residential unlawful detainer matter in which a notice to pay rent or quit has been obtained pre-petition, a motion for relief from stay may be heard on a shortened notice on the same dates and times as other relief from stay motions. Motions calendared on shortened time in accordance with this procedure, a notice of hearing along with a copy of movant's papers must be posted on debtor's front door or personally served on the debtor. In addition, telephonic notice of the date, time and place of the hearing on the motion must be given to all parties entitled to receive notice of the motion not later than 7 calendar days prior to the hearing on the motion. Any motion filed pursuant to this "local" rule shall indicate that a response is due at the hearing.

- C. Objections to Claims (10 or less)**
- D. Employment Applications**
- E. Any motion or application in a Chapter 7, 11 or 13 case or in an adversary proceeding NOT identified below as being ineligible for self-calendar.**

## **II. MATTERS THAT MAY NOT BE SELF-CALENDARED**

- A. Matters Being Heard on Shortened Notice** (other than unlawful detainer relief from stay matters referenced in Section I above).
- B. Motions for Summary Judgment** – Judge Smith will not schedule more than one motion for summary judgment in any given week. If a party waits until just before the motion deadline date to schedule a hearing on a motion for summary judgment, it is likely the motion will not be heard on the desired date.
- C. Motions to Dismiss Under Fed. R. Civ. P. 12(b)(6)**
- D. Fee Applications**
- E. Matters Requiring More than 15 minutes of Hearing Time** - If a matter is likely to require more than 15 minutes of hearing time (e.g., the matter is anticipated to be hotly contested), a party must obtain a hearing date from the courtroom deputy who will ensure that enough time is reserved for the matter. Any such matter that is self-calendared may be stopped after it exceeds 15 minutes at the hearing and continued to a later date.
- F. Clusters of Related Matters.** If a party wishes to group for a single hearing related matters that would ordinarily be set at different times under Judge Smith self-calendaring system, the party must contact the courtroom deputy to obtain a hearing date.
- G. Status Conferences and Pre-trial Conferences in Adversary Proceedings.** The initial status conference date will be set by the Clerk's Office at the time of issuance of the summons. All subsequent status conferences and pre-trial conferences are set by the court.
- H. Emergency Motions (including motions arising under any general order or local rule applying to Chapter 11 cases)**
- I. Reaffirmation Agreements.** Upon the filing of a reaffirmation agreement in a case in which the debtor is not represented by counsel, the courtroom deputy will schedule a hearing on the reaffirmation agreement. In a case in which the reaffirmation agreement is accompanied by a declaration from debtor's counsel in compliance with 11 U.S.C. § 524(c)(3), no hearing on the reaffirmation agreement is required.
- J. Chapter 7 Trustee's Final Report and Related Applications for Approval of Professional Fees and Expenses.** A hearing date for a chapter 7 trustee's final report and related applications for approval of professional fees and expenses is set by the courtroom deputy.
- K. Objections to Claim (more than 10)**

### III. PROCEDURE FOR USING THE SELF-CALENDARING SYSTEM

**STEP 1:** Identify available dates and times for the type of matter that you want to calendar by referring to the monthly calendars posted in the Judge's courtroom or on the Court's website ([www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) or by calling the Court's general information number (714-338-5300) and selecting the menu options necessary to direct you to calendaring information for Judge Smith.

- ***PLEASE NOTE:*** Calendar dates are subject to periodic revision, so please verify that you are referring to a *current version* of the Judge's monthly calendar.

**STEP 2:** Prepare a notice of hearing for the date and time that you have selected. If your motion is for relief from stay, you must provide notice in the same form as outlined by Local Bankruptcy Rule 9013-1(1)(e) (Local Forms series 350).

- ***PLEASE NOTE:*** By choosing a date for a relief from stay hearing that is greater than 30 days from the date you file your motion, you are deemed to have waived the time limits of Bankruptcy Code Section 362(e).

**STEP 3:** Give sufficient notice of all matters to all parties entitled to receive such notice pursuant to applicable provisions of the Local Bankruptcy Rules and Federal Rules of Bankruptcy Procedure. Schedule hearing dates accordingly. Moving parties may refer to Local Bankruptcy Rule 9013-1(a)(6) regarding service of the notice of the hearing and Local Bankruptcy Rule 9013-1(a)(13) regarding evidence supporting the motion.

**STEP 4:** File and serve your moving papers in a timely manner! Refer to the Local Bankruptcy Rules and Federal Rules of Bankruptcy Procedure for applicable filing and service deadlines. If proof of service is insufficient, the moving party's motion may be continued or denied. Be sure to deliver a courtesy copy of all papers to the Judge's chambers with the time and date of the scheduled hearing placed underneath the title of the pleading.

**STEP 5:** If the date you have selected is unavailable because you have given insufficient notice, the date and time are already fully booked or for any other reason, the courtroom deputy will contact you to arrange an alternative date. **The Court reserves the right to reschedule any hearing.** You will be notified promptly if your hearing has been re-set.

**STEP 6:** Bring your proposed order to the hearing, together with whatever notices of entry, copies and envelopes may be required, so that the Judge can sign the order at the hearing if your motion is granted. **Do not lodge the proposed order prior to the hearing.** (You may, however, serve the proposed order on other parties, if you wish to afford them an opportunity to review the form of the order before the hearing.)

- ***PLEASE NOTE:*** If you attempt to self-calendar a matter that may not be self-calendared (see Section II above), the matter will not be placed on the court's calendar and the courtroom deputy will contact you regarding an alternative date. Such improper use of the self-calendaring system may significantly delay the scheduling of a hearing on the matter.

**UPDATED: September 7, 2007**